

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

HILLERY L. HARDEMAN and JOYCE
HARDEMAN

V.

BANK OF NEW YORK MELLON

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CIVIL ACTION NO. 4:22CV794
JUDGE MAZZANT/JUDGE JOHNSON

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On March 7, 2024, the Magistrate Judge entered a Report and Recommendation (Dkt. #49) that Defendant Bank of New York Mellon's, fka The Bank of New York, as Trustee for the Certificate-holders of the CWABS, Inc. Asset-Backed Certificates, Series 2006-18, Rule 12(b)(6) Motion to Dismiss (Dkt. #22) be granted.

Having received the report of the United States Magistrate Judge, and no timely objections being filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the Court.

Accordingly, it is hereby **ORDERED** that the 12(b)(6) Motion to Dismiss (Dkt. #22) is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiffs Hillery L. Hardeman and Joyce Hardeman's § 12.002(a), breach of contract, and fraud claims are **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that Plaintiffs' suit to quiet title cause of action is **DISMISSED WITHOUT PREJUDICE**. Plaintiffs are given leave to file an amended complaint

on this claim on the asserted ground that the foreclosure was barred by the statute of limitations no later than fourteen (14) days after the entry of this Memorandum Adopting Report and Recommendation. If Plaintiffs fail to timely file an amended complaint, Plaintiffs' suit to quiet title cause of action will be dismissed with prejudice.

SIGNED this 25th day of March, 2024.



AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE